

A.C. 42493 : APPELLATE COURT
JUDITH KISSEL :
VS. :
CENTER FOR WOMEN'S HEALTH, P.C.,
ET AL. : JANUARY 24, 2019

PRELIMINARY STATEMENT OF ISSUES

Pursuant to *Practice Book* § 63-4(a)(1), Defendant Center for Women's Health, hereby submits this preliminary statement of issues:

1. Whether the trial court erred when it denied the Defendant's motion to dismiss (Docket # 105.86) after the Plaintiff failed to comply with Conn. Gen. Stat. § 52-190a by failing attach a letter from a similar health care provider with to her complaint and where she did also not seek to correct that omission until after the statute of limitations had expired?
2. Whether the trial court erred by denying the Defendant's request for an evidentiary hearing on the motion to dismiss for a lack of a good faith certificate?
3. Whether the trial court erred in granting Plaintiff's motion for protective order which precluded the Defendant from obtaining medical records from plaintiff's mental health provider(s) (Docket # 193.86, 193.87) where she was making a claim for damages intrinsically tied to her emotional state following her injury?
4. Whether the trial court erred in allowing the plaintiff to present emotionally based damages at trial when, during the course of discovery, another judge had previously granted plaintiff's motion for protective order which precluded the defendants from obtaining the plaintiff's psychiatric records because no claim of emotional damages was to be made at trial.

5. Whether the trial court erred in precluding the Defendant from deposing and discovering from Plaintiff's standard of care expert, Simone Wan Moran, L.Ac. all aspects of her expert review of this matter, including without limitation her initial opinions at the outset of her review, because she may have drafted the good faith opinion letter pursuant to Gen. Stat. § 52-190a.
6. Whether the trial court erred in denying the defendant's motions for directed verdict and to set aside the verdict where the evidence presented at trial was insufficient to prove that Defendant Reed Wang, L.Ac.'s purported breach of the standard of care was the cause of Plaintiff's injuries, thus allowing the jury to improperly speculate on the issue of causation?
7. Whether the trial court erred by precluding evidence at trial that the subject lamp was indeed "tested/ certified" by a third party engineering firm for safety purposes and that the lamp was marketed to the Defendant Reed Wang, L.Ac., as "FDA approved"?
8. Whether the trial court erred in failing to instruct the jury that expert testimony is required to establish causation under the circumstances of this medical negligence case?
9. Whether the trial court erred in failing to properly instruct the jury that expert testimony was required to establish Reed Wang L.Ac's deviation from the standard of care as a licensed acupuncturist in assessing his contribution to plaintiff's injuries with respect to plaintiff's claims against the Defendant Health Body World Supply, Inc., a/k/a the WABBO Company.
10. Whether the trial court erred in precluding the admission into evidence of an exemplar lamp and/ or in its instruction to the jury that the subject lamp was not in the same condition as it was at the time of the subject incident.

11. Whether the trial court erred in first instructing the jury that certain evidence would be admitted for consideration of the “medical malpractice” claim while other evidence was to be considered only for the “products liability” claim, yet later allowing the jury to consider all of the evidence for any purpose thereby improperly allowing the consideration opinion testimony as to standard of care presented by witnesses who were not similar health care providers to Reed Wang L.Ac, a licensed acupuncturist?
12. Any other issue that may appear after further review of the record.

THE DEFENDANT,
CENTER FOR WOMEN’S HEALTH, P.C.

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CERTIFICATION

Pursuant to *Practice Book* § 62-7, I hereby certify that: (1) on January 24, 2019, the foregoing document was emailed to the counsel of record listed below; (2) the document contains no personally identifiable information or information that is prohibited from disclosure by rule, statute, court order, or decisional law or is being filed under seal pursuant to court order; and (3) the document complies with all applicable rules of appellate procedure.

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